

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



Agenda ID # 2437
Alternate to Agenda ID# 2264
Ratesetting

June 26, 2003

TO: PARTIES OF RECORD IN APPLICATION 03-01-019

Enclosed is the Alternate Draft Decision of Commissioner Loretta Lynch to the Draft Decision of Administrative Law Judge (ALJ) Robert Barnett previously mailed to you.

When the Commission acts on this agenda item, it may adopt all or part of it as written, amend or modify it, or set aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Public Utilities Code Section 311(g)(1) requires that an alternate to a draft decision be served on all parties, and be subject to public review and comment prior to a vote of the Commission. Rule 77.6(d), provides that comments on the alternate draft decision be filed at least seven days before the Commission meeting. Comments are due on July 3 and reply comments are due on July 8, 2003.

Pursuant to Rule 77.3 comments shall not exceed 15 pages. Finally comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service. Please also provide an electronic copy of the comments to Aaron Johnson at ajo@cpuc.ca.gov.

Angela Minkin, Chief
Administrative Law Judge

ANG:epg

Enclosure

Decision **ALTERNATE DRAFT DECISION OF COMMISSIONER LYNCH**
(Mailed 6/26/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U 338-E) for Authority to Lower and
Adjust Retail Electric Rates for All Customer
Classes Upon Completion of Full Recovery of
Procurement Related Obligations Account.

Application 03-01-019
(Filed January 17, 2003)

**DECISION APPROVING A SETTLEMENT
LOWERING SOUTHERN CALIFORNIA EDISON'S
RETAIL ELECTRIC RATES BY \$1.25 BILLION**

TABLE OF CONTENTS

TITLE	PAGE
DECISION APPROVING A SETTLEMENT LOWERING SOUTHERN CALIFORNIA EDISON'S RETAIL ELECTRIC RATES BY \$1.25 BILLION.....	2
Background.....	2
Categorization and Need for Hearings	7
The Settlement Agreement	7
I. Stipulated Post-PROACT Retail Rates	8
A. Settlement Assumptions	8
B. Effect on AB 1890 10% Bill Reduction	11
C. No Effect on Litigation Settlement	11
D. Effect on Other Proceedings	12
Discussion	13
A. The Settlement Agreement with Modifications is Supported by the Record.....	14
B. The Settlement Agreement with Modifications is Consistent with Law	15
C. The Settlement Agreement with Modifications is in the Public Interest	15
Comments on the Settlement Agreement	20
Comments on the Draft Decision and Alternate Draft Decision	21
Assignment of Proceeding.....	22
Findings of Fact	22
Conclusions of Law	26
APPENDIX A	

**DECISION APPROVING A SETTLEMENT
LOWERING SOUTHERN CALIFORNIA EDISON'S
RETAIL ELECTRIC RATES BY \$1.25 BILLION**

Background

In early 2001, the Commission authorized rate surcharges to address the financial upheaval resulting from the energy crisis of 2000-2001. (Decision (D.) 01-03-082 and D.01-05-064.) On October 5, 2001, the United States District Court approved a settlement between Southern California Edison (SCE) and the Commission that, among other things, established the Settlement Rates and new ratemaking mechanisms effective as of September 1, 2001 (the federal settlement).

On November 14, 2001, SCE filed Advice 1586-E to establish the Procurement Related Obligations Account (PROACT) and an associated ratemaking structure consistent with the federal settlement. On January 23, 2002, the Commission issued Resolution E-3765 approving, with modifications, the structure and operation of the PROACT. Under the Commission-approved PROACT ratemaking structure, the difference between SCE's revenues from Settlement Rates and SCE's Recoverable Costs (this difference is defined as Surplus) is determined on a monthly basis through the operation of the Settlement Rates Balancing Account (SRBA). The amount of Surplus determined in the SRBA is used during the Rate Repayment Period to recover the PROACT balance. In accordance with the federal settlement and Resolution E-3765, SCE established the PROACT on September 1, 2001, with an initial balance of \$3.578 billion. The balance in the PROACT was \$2.641 billion at December 31, 2001, and \$686 million on November 30, 2002. SCE in its application projected that it could recover the remaining PROACT balance as early as July 2003, which would result in the termination of Settlement Rates.

SCE's federal settlement calls for the rate surcharges to be removed once the balance in SCE's PROACT has been fully recovered. In this application SCE seeks authority to lower its retail electric rates by approximately \$1.25 billion upon full recovery of its PROACT balance. SCE seeks advance approval for post-PROACT rates in order that reduced rates may become effective as soon as possible once the PROACT balance has been recovered. In this application SCE estimated new rates would be effective September 1, 2003.

The application as filed proposed (1) a net change in revenues of zero for the domestic (residential) rate group overall, and an average 8% bill reduction for high-use residential customers, *i.e.*, those in Tiers 4 and 5, through the elimination of those two tiers; and (2) lower rates for all other retail rate groups.

The Utility Reform Network (TURN) and the Office of Ratepayer Advocates (ORA) filed protests to the application. In February, 2003, the Assigned Administrative Law Judge (ALJ) directed to submit a different allocation of the reduction in SCE's generation revenue requirement. SCE submitted this additional evidence. TURN and other parties also submitted data requests to SCE, requesting that SCE make assumptions different from those in the application and show the resulting rate levels under those differing assumptions. SCE responded to those data requests. A prehearing conference (PHC) was held on March 21, 2003, at which additional rate scenarios were requested of SCE, which SCE has provided. A second PHC was held April 8, 2003.

This application arises during the pendency of SCE's 2003 General Rate Case (GRC) and during the pendency of several other proceedings bearing on SCE's retail rates, including but not limited to the Baseline Order Instituting Rulemaking (OIR) (R.01-05-047), the Direct Access Cost Responsibility Surcharge

(DACRS) ODR (R.02-01-011) and the Demand Response OIR (R.02-06-001). As those proceedings are not concluded, resolution of this post-PROACT application, absent a settlement, would cause the Commission to make assumptions about the outcome of those proceedings.

It is apparent that fully litigating the application would delay the effective date for lowering retail customer rates, perhaps by many months, to a date well beyond the date at which SCE has fully recovered its PROACT balance. Alternatively, we could issue an interim decision to be modified after the application was heard on a complete record. All parties recognize that the implementation of interim rates to be modified at a later date would promote retail rate volatility, which is undesirable. Because of these concerns, the parties began settlement discussions which culminated in a duly noticed settlement conference on April 17, 2003, where the parties entered into a settlement agreement.

On April 23, 2003, SCE moved the Commission (1) to find reasonable and approve the Settlement Agreement attached to the motion, and (2) to shorten to 15 days the 30-day comment period otherwise provided for in Rule 51.4. SCE asks for approval of the settlement because rate reduction is in the public interest and the settlement reflects the concerted efforts of many participating parties. It says the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. SCE asks for shortening of the 30-day comment period in order to facilitate the Commission's issuance of a decision in time for lower rates to become effective as early as July 1, 2003. SCE believes no prejudice will result from this request because no party has spoken against the settlement or stated an intention to oppose it. As of the date it

submitted the Settlement Agreement, SCE had received no written indication whatsoever that any party would oppose the Settlement Agreement.

In addition to removal of the surcharges, this settlement sets forth SCE's unbundled revenue requirements for 2003 – a total system average reduction of nearly 12.9% for bundled service customers – an allocation of those revenue requirements to various rate groups, and proposes a rate design to recover those revenue requirements.

The Settlement Agreement does the following.

1. Reduces rates by approximately \$1.25 billion for the 12 months beginning July 1, 2003, if PROACT is projected in June to be fully recovered in June.
2. Establishes the process by which SCE will forecast when PROACT has been fully recovered;
3. Allocates SCE's estimated post-settlement revenue requirements to the various rate groups;
4. Proposes new rate levels and structures for those various rate groups;
5. Establishes a procedure to address the possibility of a forecasting error.

On June 9, the State Superintendent of Public Instruction (SPI) filed a motion to intervene in this proceeding and included timely comments on the draft decision. The SPI pointed to the widely reported crisis in education funding and impending teacher layoffs due to financial shortfalls in the State budget. Given this crisis, and the subsequent effect on the children of California, the SPI recommended that the Commission reduce rates for schools to pre-energy crisis levels – a reduction of approximately 4.5 cents/kWh – before giving a reduction to other customers. The SPI suggests this could be accomplished by creating a rate class for schools and that the effect minor on the other rate classes

would be relatively minor, many of which currently have lower rates than schools.

The SPI states that the specific rate relief requested is in the public interest and will benefit California as a whole by enabling schools to save as many as 3,000 jobs for the coming academic year. The SPI proposal is consistent with California's efforts to make education a priority, as demonstrated by recent public statements by the Governor.¹ In addition, the California Legislature is considering adopting a special rate for schools.²

Accordingly, the Commission will alter the Settlement Agreement in this proceeding to grant the request of the SPI, inclusive of all public school facilities.³ SCE will file an advice letter 10 days from the date of this decision to conform with the changes made by the Commission in this decision adopting the all-party settlement with the modification to create a school rate for all public school facilities.

¹ "Governor Davis Unveils May Budget Revision Protecting Education, Public Safety 5/14/2003," Press Release, May 14, 2003, http://www.governor.ca.gov/state/govsite/gov_homepage.jsp

² Senate Bill (SB) 888, as amended June 4, 2003, pp. 24-25.

³ "Public school facilities" shall be defined as all real property and portable classrooms owned or leased by a school district, county office of education, charter school, community college district, the California State University and the system of institutions of higher education which comprises the California State University as authorized in Section 89001 of the Education Code, and the Trustees of the California State University.

Categorization and Need for Hearings

In Resolution ALJ 176-3110, dated April 3, 2003, the Commission preliminary categorized this application as ratesetting, and preliminarily determined that hearings were necessary. No hearings were held. Given this developments, it is necessary to change the preliminary determination that hearings were required.

The Settlement Agreement

The Settlement Agreement (Exhibit 3) was entered into as of the 17th day of April 2003 by SCE, TURN, ORA, California Large Energy Consumer Association (CLECA), California Manufacturers and Technology Association (CMTA), Agricultural Energy Consumers Association (AECA), California Farm Bureau Federation (CFBA), and California City-County Street Light Association, and Federal Executive Agencies (collectively Settling Parties) in order to resolve the issues in A.03-01-019.

The SPI filed a motion to intervene on June 9, 2003, and submitted timely comments on the draft decision at that time. The SPI had also sent a letter requesting similar relief to each of the Commissioners on May 13, 2003, one week before the proposed decision was mailed for public review. As they note in their motion, the SPI does not usually intervene in Commission proceedings and thus was unaware of the proposed all-party settlement.⁴ SCE argues in its reply comments that the SPI's comments come late in the proceeding and thus should be rejected, while acknowledging the budget problems facing California schools. The Commission should grant latitude, where possible, to parties wishing to

⁴ Motion of State SPI to Intervene as a Party and Submit Comments, June 9, 2003, p. 2.

participate in its public processes and actively encourages the participation of parties that are not regularly part of Commission proceedings in order to increase the diversity of viewpoints that help shape Commission decisions. In addition, the comment period on the Settlement Agreement was reduced significantly, restricting the ability of parties not yet participating in the proceeding to become involved. Thus, the Commission grants the SPI's motion to intervene in this proceeding and appropriately weighs the SPI's comments in considering the Settlement Agreement.

Pursuant to Rule 2.2(d), SCE tendered the Settlement Agreement on behalf of the Settling Parties.

I. Stipulated Post-PROACT Retail Rates

The Settling Parties have agreed upon new retail rates (settled post-PROACT rates) to be in effect from as early as July 1, 2003, and for a period of 12 months, regardless of their effective date, except as modified pursuant to Paragraph II.A.h below. Those rates are set forth in Attachment "A" to the Settlement Agreement.

This settlement differs conceptually from the application in that it calls for SCE to make a forecast of the date of full recovery of PROACT balance based upon the prior month's recorded PROACT balance and a forecast of the Surplus revenues during the current month, rather than to wait for the confirmation of actual recovery of that balance. While the latter would result in larger rate reductions because of the need to refund an overcollection, the Settlement Agreement provides for rate reductions sooner.

A. Settlement Assumptions

The assumptions utilized in these rates, which may call for their adjustment in the future and on a prospective basis, are:

- a. With respect to the Direct Access Cost Responsibility surcharge (DA CRS), a shortfall from DA CRS of \$325.6 million as of December 31, 2003 is to be financed by bundled service customers. The allocation of this \$325.6 million to various rate groups is as set forth in Attachment “B” to the Settlement Agreement. The Settling Parties agree to this level of DA CRS shortfall without prejudice to their positions in R.02-01-011.
- b. The settled post-PROACT rates reflect the revised 2003 sales forecast to which SCE and ORA stipulated in SCE’s 2003 GRC subsequent to SCE’s filing of Application 03-01-019. Such rates also reflect more precise levels of Present Rate Revenues (PRR) for bundled service customers, and a revenue requirement updated to reflect SCE’s recent Energy Resource Recovery Account (ERRA) filing.
- c. For purposes of the Settlement Agreement and the period during which these settled post-PROACT rates will remain in effect, subject to modifications pursuant to Paragraph II.A.h below, the parties hereto stipulate to the revenue requirement upon which the settled post-PROACT rates are based.⁵ Any under- or over-collection of revenues compared to those eventually authorized by the Commission in various other proceedings, except those resulting from the DA CRS shortfall, will be trued-up through the operation of SCE’s ratemaking mechanisms for the post-PROACT period as shown in Table II-1 on page 22 of Exhibit SCE-1 filed with the application. Any implementation of a Commission decision concerning the DA CRS shortfall will take place consistent with the process described in Section II.D below.

⁵ Appendix A of this decision.

- d. On the fifth workday of each month, SCE will determine the end-of-month recorded PROACT balance for the previous month and will forecast the end-of-month PROACT balance for the current month. If the forecast indicates that PROACT balance will be fully recovered by the end of the current month, SCE will file an advice letter on the 10th workday of the current month to implement the new rates at the beginning of the following month. For example, if on the fifth workday of June 2003, when SCE determines the recorded PROACT balance for May 2003, SCE forecasts that PROACT balance will be recovered by the end of June 2003, then on the 10th workday of June 2003, SCE will file an advice letter to implement the new rates on July 1, 2003.
- e. If the recorded PROACT balance at the end of the month during which SCE's forecast indicated that PROACT balance would be recovered is over-collected, SCE will transfer such an over-collection to the Energy Resource Recovery Account (ERRA) for return to customers through the operation of that account. If the recorded balance is under-collected, SCE will first use any remaining balance in the Catch-Up Surcharge Revenue Memorandum Account to eliminate such under-collection. Any then-remaining under-collected PROACT balance will be transferred to the ERRA.
- f. SCE may not be able to make bill presentation for SCE Delivery, SCE Generation, and DWR charges under the settled rates until September 1, 2003, due to the press of other decisions to be implemented in SCE's billing system. Between the implementation of post-PROACT rates and September 1, 2003, SCE will use the current method of crediting the Direct Access customers by first billing them at the lower total bundled service rate and then crediting them with the bundled service Generation rate

component (including SCE Generation and DWR charges) less any DA CRS cap.

- g. Settled rates will remain in effect for 12 months, except as provided for in Paragraph II.A.h below.
- h. SCE shall apply to the rate structure and levels agreed to herein the revenue requirement change approved in Phase 1 of its 2003 GRC or any other proceedings in which the Commission approves a revenue requirement change for SCE on the effective date of the Commission decisions in those proceedings. Any such revenue requirement change will be reflected in SCE's rates on a system average percentage change (SAPC) basis until Phase 2 GRC rates are implemented, consistent with applicable law and Commission decisions.

B. Effect on AB 1890 10% Bill Reduction

This Settlement Agreement effectively maintains the status quo with respect to the 10% bill reduction provided to residential and small commercial customers in Assembly Bill (AB) 1890. Any matter regarding the AB 1890 10% bill reduction is to be addressed in Phase 2 of SCE's general rate case (GRC) and is unaffected by this Settlement Agreement.

C. No Effect on Litigation Settlement

The transfer to the ERRRA of any uncollected PROACT balance, as described in Paragraph II.A.e. above, is not inconsistent with any provision of SCE's federal settlement with the Commission, shall constitute full recovery of PROACT for purposes of that federal settlement, and shall not operate to constrain or continue to constrain SCE's ability to rebalance its capital structure to levels authorized by the Commission. TURN in particular agrees to this without waiver of or prejudice to its position in the SCE v. Lynch litigation.

D. Effect on Other Proceedings

This Settlement Agreement is intended only to provide for new retail customer rates until the Commission approves rates in Phase 2 of SCE's 2003 GRC. The assumptions made and issues disposed of are intended to be disposed of and made solely for purposes of settling the issues raised in the application. While this Settlement Agreement resolves the current undercollected balance in SCE's Baseline Balancing Account (BBA), no other pending proceeding is intended to be affected.

SCE will file a notice in the Baseline OIR (R.01-05-047) that this Settlement Agreement resolves the issues related to SCE's current BBA undercollection. The Settling Parties hereto agree that, as of the date these rate reductions go into effect, the balance of SCE's BBA will be amortized in rates over 12 months, no additional undercollection will accrue and the account will be terminated at the end of the 12-month amortization period. Furthermore, the Settling Parties agree that the resolution and allocation of SCE's BBA does not constitute any admission or precedent regarding the appropriate allocation of BBA balances in R.01-05-047 for either Pacific Gas and Electric Company or San Diego Gas & Electric Company.⁶

These settlement rates assume a DA CRS shortfall of \$325.6 million as of December 31, 2003. In the event the Commission in R.02-01-011 issues a decision that results in a different amount of DA CRS shortfall than \$325.6 million, the difference in amount will be allocated to rate groups based on

⁶ On May 2, 2003 the assigned ALJ in R.01-05-047 issued a ruling reopening Phase 2 of that proceeding to allow receipt of information regarding the impact of the Settlement Agreement, if approved, on pending Phase 2 issues.

the methodology adopted by the Commission in R.02-01-011 and will be prospectively reflected in rates provided for in Phase 2 of SCE's 2003 GRC. The allocation of the \$325.6 million to various rate groups is set forth in Attachment B to the Settlement Agreement to be utilized only for determining the amount to be paid back to bundled service customers in each rate group when DA customers start paying back their obligations to bundled service customers. This Settlement Agreement resolves matters which are, in many respects, contested by one or more of the Settling Parties. Participation in this Settlement Agreement by any party does not constitute an admission regarding positions asserted in the application, in any protest thereto, or in any statements made to the Commission.

Discussion

SCE submitted this application to bring rate relief to its customers as soon as its PROACT balance is recovered. The chief change between application and the Settlement Agreement, one which will make rate relief available sooner, is that while the application called for PROACT collection to be verified first, with rate relief following, the Settlement Agreement calls for a forecast of PROACT recovery. Because the forecast method will result in either no overcollection (an unavoidable occurrence under the other method), or a much smaller one, to be returned to ratepayers, the rate reductions are somewhat less under the forecast method.

The Settlement Agreement differs from the application in certain other respects - among them the resolution of SCE's Baseline Balancing Account, a modified treatment of the Direct Access Cost Responsibility Surcharge shortfall, and making post-PROACT rates effective for 12 full months - but is still consistent with implementing new rates that account for the reduction in SCE's generation revenue requirement that full recovery of PROACT makes possible.

In response to the timely comments filed by the SPI, and in accordance with the Commission's Rules of Practice and Procedure (Rule 51.7), the Commission modifies this settlement to create an electricity tariff for public school facilities that will return school rates to pre-energy crisis levels, that is, before the rate increases in 2001 of approximately 4.5 cents/kWh. SCE shall file the appropriately re-calculated tariffs for all customer classes with the Commission by Advice Letter within 10 days of this decision, as described below.

A. The Settlement Agreement with Modifications is Supported by the Record

The record contains the information necessary for the Commission to find the Settlement Agreement reasonable. In addition to its prepared testimony and the rate structure originally proposed, SCE produced additional rate scenarios, including those requested by the Assigned ALJ, based on stated assumptions different from those in the application. The Assigned ALJ admitted into evidence the following exhibits:

Exhibit 1 – SCE's Post-PROACT Ratemaking and Rate Design Proposal.

Exhibit 2 – SCE's Post-PROACT Proposed Preliminary Statements.

Exhibit 3 – The Settlement Agreement.

Exhibit 4 – SCE's response dated March 10, 2003, to the ALJ.

Exhibit 5 – SCE's response dated May 2, 2003, to the ALJ.

The rates set forth in the Settlement Agreement are consistent with the evidence and Commission decisions.

**B. The Settlement Agreement with Modifications
is Consistent with Law**

The terms of the Settlement Agreement comply with all statutes and prior Commission decisions.

**C. The Settlement Agreement with Modifications
is in the Public Interest**

The Settlement Agreement with the modifications described herein is a reasonable compromise of the Settling Parties' respective positions. The Settlement Agreement with modifications is in the public interest and the interest of SCE's customers. The Settlement Agreement with modifications avoids the cost and delay of further litigation and brings rate relief to customers in all rate groups. It does so while not unduly burdening the resources of any party, nor the Commission, whose resources are presently engaged in other proceedings, including SCE's 2003 GRC. Specifically, the modifications ordered by the Commission to the Settlement Agreement serve the public interest by providing much needed rate relief to the public school system of California in a time of fiscal crisis. This school system educates millions of Californians, employs hundreds of thousands of Californians, and this rate relief will allow this critical California infrastructure to function more productively to the benefit of the entire State.

In addition, unlike most businesses or industries, and unlike the California electrical system as a whole, public school facilities tend to have peak electrical usage during winter rather than summer months, which means they contribute less to system sizing and peak demand costs. Public schools, particularly K-12, are also not in a position to adjust the price of the service they

provide based on increased costs of doing business (i.e., increased facility costs due to higher electricity rates), further justifying their need for rate relief.

There is a reduction of \$1.249 billion to the bundled service customers. These customers will also be owed \$325.6 million by Direct Access (DA) customers, due to the cap on the DA Cost Responsibility Surcharge (CRS), to be paid back to them when the cap can accommodate it.

The numbers in the following table (Table 1) show the current revenue by customer rate group and the settlement revenue by customer rate group, prior to the Commission's modifications. The SPI provided broad information on statewide school energy use (5 billion kWh per year) and cost savings from a school tariff (\$200 million). The SPI proposal estimated that the requested rate relief would decrease other customer classes rate reductions by approximately 0.1 cent/kWh.⁷ The decreased rate relief to supplement the schools rate proposal was confined to large users (i.e., commercial, industrial and agricultural), the same general customer classes in which schools reside.⁸

In light of the changes to the Settlement Agreement brought about by adopting the SPI's proposal for a public school facilities tariff, the figures in Table 1 are illustrative only (but, given the slight changes to other customers' rates calculated by the SPI, are a reasonable approximation). The Commission can comfortably move forward on a policy basis using these approximate figures and

⁷ Although the Commission has created a broad definition of public school facilities, consistent with the pending legislative language in SB 888, we note that in Rulemaking (R.) 02-01-011, the higher education customers are receiving direct access service and thus will not figure significantly in this re-calculation.

⁸ SCE points out that "Schools are served under various rate schedules and are members of GS-1, GS-2 and TOU-8 rate groups," SCE Reply Comments, p. 3.

effects on specific customer classes. However, we request that SCE re-file Table 1 based on the modifications proposed here in its comments on this decision in order to provide a more accurate picture of the exact effect of this proposal, to which parties may respond in their reply comments.

SCE shall file, within 10 days of this decision, an Advice Letter implementing the Settlement Agreement with the modifications made by the Commission. Specifically, SCE shall create a separate rate class for public school facilities, which will receive a rate decrease of 4.5 cents/kWh and which will come, on an equal cents per kWh basis, from the three broad customer classes indicated in the SPI proposal and outlined above.

Table 1 shows the current revenue by customer rate group and the settlement revenue by customer rate group, with totals, prior to Commission modification of the Settlement Agreement.

Southern California Edison
Post-PROACT Present and Adopted Average Rates for Bundled Service Customers

	Current		Adopted			
	Average Rates - ¢/kWh	Revenue (\$million)	Average Rates - ¢/kWh	Revenue (\$million)	Average Rate Percent Change	Revenue change (\$million)
CARE	8.899	366	8.899	366	0.0%	0
Non-CARE	14.664	3,105	13.512	2,835	-7.9%	(271)
Total Residential	13.726	3,472	12.655	3,201	-7.8%	(271)
GS-1	17.493	736	14.293	601	-18.3%	(135)
TC-1	12.735	17	10.957	15	-14.0%	(2)
GS-2	15.268	2,963	13.314	2,584	-12.8%	(379)
TOU-GS-2	14.622	70	12.157	58	-16.9%	(12)
Total LSMP	15.627	3,785	13.448	3,258	-13.9%	(528)
TOU-8-Sec	13.974	1,000	11.476	821	-17.9%	(179)
TOU-8-Pri	13.487	666	11.287	557	-16.3%	(109)
TOU-8-Sub	10.830	400	8.044	297	-25.7%	(103)
Total Large Power	13.086	2,065	10.614	1,675	-18.9%	(390)
PA-1	15.323	87	13.587	77	-11.3%	(10)
PA-2	11.039	59	9.914	53	-10.2%	(6)
AG-TOU	10.200	88	8.233	71	-19.3%	(17)
TOU-PA-5	9.524	71	7.781	58	-18.3%	(13)
Total Ag.&Pump.	11.247	305	9.557	260	-15.0%	(46)
Total Street Lights	17.181	93	14.506	79	-15.6%	(15)
System	14.180	9,722	12.357	8,472	-12.9%	(1,249)

The balance in SCE's Baseline Balancing Account to be amortized over 12 months is \$105.9 million.

The Settlement Agreement does not identify a separate 10% reduction during the period governed by the post-PROACT rates. The Settlement Agreement maintains the AB 1X rate protections for consumption up to 130% of Baseline by reducing Tier 1 and 2 rates by 10%. This interim change would leave bills unchanged for residential users consuming up to 130% of Baseline. The Settling Parties agree that the issue of whether or not to continue the 10% bill reduction credit for SCE customers will be addressed in Phase 2 of SCE's 2003 GRC. The Settlement Agreement does not resolve this issue and the proposed rates do not assume either the ultimate continuation or expiration of the credit after these post-PROACT rates are no longer in place. The Settling Parties have not waived their positions on this issue as it pertains to other utilities or Phase 2 of SCE's 2003 GRC.

The Settlement Agreement proposes the termination of the surcharges imposed on SCE by D.01-01-018 and D.01-05-064. The post-PROACT settlement rates build rates from the bottom up, including DWR charges, which results in the immediate \$1.249 billion reduction to bundled service customers, plus an obligation by DA customers to pay \$325.6 million to bundled service customers when the DA CRS cap can accommodate this.

SCE currently bills DA customers and bundled service customers in the same manner using bundled service rates, and then credits DA customers in the amount of the generation component of those rates. Under the Settlement Agreement, SCE will continue to do so until September 1, 2003, although under the Settlement Agreement SCE starts with lower bundled service rates and will have a lower generation rate to be credited to DA customers.

Beginning September 1, 2003, SCE will move to “bottoms-up” billing under which DA customers will be charged, and their bills will reflect, only the services they receive and the DA CRS. The current DA crediting methodology will be changed at that time.

Comments on the Settlement Agreement

Pursuant to Rule 51.4, the Alliance for Retail Energy Markets (AReM) has filed what it calls a limited protest to the Settlement Agreement. The County of Los Angeles and the Energy Producers and Users Coalition (EPUC) filed comments supporting the Settlement Agreement.

AReM calls for the Commission to raise SCE’s revenue requirement, and with it, SCE’s post-PROACT rates. This would benefit AReM’s members, Electric Service Providers – many of whom sell their generation at some percentage below SCE’s rates. AReM focuses on a line item labeled “PROACT Overcollection” (Line 23) which shows a \$107.9 million credit in the revenue requirement table provided in Attachment A to the Settlement Agreement. (Appendix A to this decision.) This line item, in AReM’s opinion, is inconsistent with Section II.A.e of the Settlement Agreement and statements made by SCE during the settlement discussions and in the April 8, 2003 Prehearing Conference. AReM would modify the Settlement Agreement by eliminating the \$107.9 million credit. SCE, on behalf of TURN, ORA, FEA, CLECA, CFBF, and AECA, opposes AReM’s position.

AReM states that “following AReM’s recommendation would not raise rates.” This is not correct. Removing the PROACT overcollection from the revenue requirement, based upon which the rate levels and structures reflected in Attachment A of the Settlement Agreement were designed, would result in the need to increase those rates by \$107.9 million. AReM’s argument that the

inclusion of the PROACT overcollection results in “anti-competitive generation rates” and its recommendation for treatment of that overcollection are unpersuasive. SCE cannot hold funds belonging to its ratepayers just to keep its generation rates high for Energy Service Providers to be able to compete with that generation rate. AReM’s comments are rejected.

Comments on the Draft Decision and Alternate Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed by the Settling Parties. The Settling Parties pointed out some minor technical errors in the decision, which have been corrected. The Settling Parties support the draft decision but request a modification of Ordering Paragraph 7 because it is not clear that full recovery of PROACT will be projected to occur during June, which would be the basis for lower rates to take effect July 1. Ordering Paragraph 7 calls for SCE to file within 10 days of the effective date of the order an Advice Letter with revised tariff sheets, and provides that those revised SCE tariff sheets “shall become effective July 1, 2003, subject to a finding of compliance by the Energy Division.” The Settling Parties point out that the Settlement Agreement calls for SCE to make a forecast of PROACT recovery during whatever is the then-current month, based on the recorded data from the prior month. But because at this time it is not certain that recovery will be made in June the draft decision should be revised to order SCE to follow the forecast-based methodology called for in the Settlement Agreement without the hard and fast date of July 1 for lower rates.

We recognize that requiring a date certain in the ordering paragraph is a deviation from the Settlement Agreement, but we believe that certainty of commencement of this rate reduction is a reasonable objective; it allows

customers, especially large users, to plan their summer electric usage with some assurance of cost. Because we prefer a fixed commencement date for the rate reduction, but want to avoid the possibility of a large undercollection, we shall move the commencement date to August 1, but will consider altering this date if SCE is unable to meet the demands placed on it by this Commission in modifying the Settlement Agreement to create a specific tariff for public school facilities.

The State Superintendent of Public Instruction also moved to intervene and that motion is granted. Changes in the settlement in accord with the comments of the SPI were made as described herein.

In accordance Pub. Util. Code § 311 and Rule 77 of the Rules of Practice and Procedure, the alternate proposed decision is being mailed to parties on June 26, 2003, and comments are due on July 3, 2003, and reply comments are due on July 8, 2003, by noon (extra time being granted in observance of the July 4th holiday).

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Pursuant to D.01-01-018 and D.01-05-064, the Commission imposed surcharges on the retail electric rates charged by SCE.
2. On or about October 1, 2001, the Commission and SCE entered into a settlement of the action entitled *Southern California Edison Company v. Loretta Lynch et. al.*, Case No. 00-12056-RSWL (Mcx), pending in the United States District Court for the Central District of California.

3. The Court approved the federal settlement over the objections of TURN and entered the stipulated judgment. TURN's appeal of the federal settlement is pending and is not affected or prejudiced by its participation in the settlement of this application.

4. Pursuant to the federal settlement, SCE submitted Advice 1586-E, seeking Commission approval, among other things, to establish the PROACT and to apply the surplus of the revenue collected in retail rates, including surcharges, to the reduction of the agreed-upon PROACT balance. Resolution E-3765 approved Advice Letter 1586-E, with modifications.

5. The federal settlement contemplates SCE applying to the Commission to adjust its retail rates upon full recovery of PROACT balance.

6. On January 17, 2003, SCE filed this application proposing a mechanism for the determination that PROACT balance has been recovered; and providing a new revenue requirement, and a new rate design.

7. This application arises during the pendency of SCE's 2003 GRC, and during the pendency of several other proceedings bearing on SCE's retail rates, including but not limited to the Baseline OIR (R.01-05-047), the Direct Access Cost Responsibility Surcharge proceeding (R.02-01-011), the Demand Response OIR (R.02-06-001). Though these other proceedings are not concluded, resolution of this application, absent a settlement, would require the Commission to make assumptions about the outcome of those proceedings, or to provide in a decision on the application for the outcome of those proceedings to be implemented in post-PROACT rates. In the various rate scenarios produced in the course of attempts to negotiate a settlement, SCE and the other Settling Parties have had to do likewise.

8. Fully litigating this application would delay the effective date of the lowering of retail customer rates, perhaps by many months, to a date well beyond the date at which SCE has fully recovered its PROACT balance.

9. An interim implementation of post-PROACT rates to be modified after the application is processed would result in retail rate volatility, which is undesirable.

10. The SPI's motion to intervene allowed for timely comment on the draft decision.

11. Public schools face a budget crisis.

12. Rate relief for public schools would benefit California's education system.

13. The Settling Parties have agreed upon new retail rates to be in effect from as early as July 1, 2003, for a period of 12 months subject to modification on a system average percentage change (SAPC) basis as the result of any intervening decision changing SCE's authorized revenue requirements. This settlement differs conceptually from the application in that it calls for SCE to make a forecast of the date of full PROACT recovery based upon the prior month's recorded PROACT balance and a forecast of the "Surplus" revenues for the current month, rather than waiting for the confirmation of actual recovery of that balance.

14. This forecast method may result in a small over- or undercollection in PROACT, and the Settlement Agreement provides that SCE shall transfer to the ERRRA any unrecovered balance, after first applying any remaining balance in the Catch-Up Surcharge Revenue Memorandum Account to its recovery. Any such over- or under-collection will be returned to or recovered from customers over the following 12 months.

15. The Settlement Agreement provides that such transfer is not inconsistent with any provision of SCE's federal settlement, shall nevertheless constitute full recovery of PROACT for purposes of that federal settlement, and shall not operate to constrain or continue to constrain SCE as respects what would otherwise be its ability to rebalance its capital structure to levels authorized by the Commission.

16. The Settlement Agreement is intended only to provide for new retail customer rates for a 12-month period, subject to modification on an SAPC basis as the result of any intervening Commission decisions changing SCE's authorized revenue requirement, to be superseded after 12 months by the rates the Commission approves in Phase 2 of SCE's 2003 GRC. Assumptions made and issues disposed of are intended to be disposed of solely for purposes of settling the issues raised in the application. However, the Settlement Agreement resolves the current undercollected balance in SCE's Baseline Balancing Account; otherwise, the assumptions are not intended to affect any other pending proceeding.

17. The settled post-PROACT rates are based on a DA CRS shortfall as of December 31, 2003 of \$325.6 million. If in R.02-01-011 the Commission adopts a different amount of DA CRS shortfall than \$325.6 million, the difference in amount will be allocated to rate groups based on the methodology adopted in R.02-01-011 and will be prospectively reflected in rates in Phase 2 of SCE's 2003 GRC.

18. As of the date that the Settlement Agreement rate reductions go into effect, the undercollected balance of SCE's Baseline Balancing Account (BBA) will be amortized in rates over 12 months, no additional undercollection will

prospectively accrue, and the account will be terminated at the end of the 12-month amortization period.

19. SCE held a properly noticed Settlement Conference pursuant to Rule 51(b) of the Commission's Rules of Practice and Procedure on April 17, 2003.

Conclusions of Law

1. The Commission encourages parties to settle otherwise contested matters.
2. The Commission has authority under Rule 51 of its Rules of Practice and Procedure to approve settlements entered into by fewer than all parties participating in a proceeding and to alter any settlement proposed by parties, provided those parties are given an opportunity to comment on the modifications.
3. The Settlement Agreement with modifications is reasonable in light of the whole record, is consistent with law, and is in the public interest.
4. The transfer by SCE to its ERRA of any unrecovered PROACT balance resulting from its forecast of PROACT recovery should be deemed full recovery of PROACT balance for purposes of its federal settlement with SCE in SCE v. Lynch, Case No. 00-12056-RSWL (Mcx).
5. Approval of this Settlement Agreement resolves pending issues in R.01-05-047 regarding the disposition and allocation of SCE's Baseline Balancing Account, without establishing any precedent for either PG&E or SDG&E.

O R D E R

IT IS ORDERED that:

1. The Settlement Agreement with the modifications described herein is approved.

2. The Settlement Agreement is modified to create a separate rate class for public school facilities, which will receive a rate decrease of 4.5 cents/kWh and which will come, on an equal cents per kWh basis, from the three broad customer classes indicated in the SPI proposal and outlined herein.

3. The Settlement Agreement shall provide new retail customer rates for a 12-month period, subject to modification on an SAPC basis as the result of any intervening Commission decisions changing Southern California Edison Company (SCE's) authorized revenue requirement, to be superceded after 12 months by the rates the Commission approves in Phase 2 of SCE's 2003 general rate case (GRC).

4. The settled post-PROACT rates are based on a Direct Access Cost Responsibility (DA CRS) shortfall as of December 31, 2003 of \$325.6 million. If in Rulemaking (R.) 02-01-011 the Commission adopts a different amount of DA CRS shortfall than \$325.6 million, the difference in amount will be allocated to rate groups based on the methodology adopted in R.02-01-011 and will be prospectively reflected in rates in Phase 2 of SCE's 2003 GRC.

5. As of the date that the Settlement Agreement rate reductions go into effect, the undercollected balance of SCE's Baseline Balancing Account (BBA) shall be amortized in rates over 12 months, no additional undercollection will prospectively accrue, and the account will be terminated at the end of the 12-month amortization period.

6. The transfer by SCE to its Energy Resource Recovery Account of any unrecovered PROACT balance resulting from its forecast of PROACT recovery shall be deemed full recovery of PROACT balance for purposes of its federal settlement with SCE in SCE v. Lynch, Case No. 00-12056-RSWL (Mcx).

7. Approval of this Settlement Agreement resolves pending issues in R.01-05-047 regarding the disposition and allocation of SCE's BBA, without establishing any precedent for either Pacific Gas and Electric Company or San Diego Gas and Electric Company.

8. Within 10 days of the effective date of this order, SCE shall file an Advice Letter with revised tariff sheets to implement the authority granted in this decision and incorporating the modifications to the Settlement Agreement described herein. The revised tariff sheets shall become effective August 1, 2003, unless SCE is unable to meet this deadline because of the Commission's modifications to the Settlement Agreement, subject to a finding of compliance by the Energy Division, and shall comply with General Order 96-A. The revised tariff sheets shall apply to service rendered on or after their effective date.

9. SCE shall file an Advice Letter with the Energy Division, on 30-days notice, prior to eliminating accounts associated with PROACT. This filing shall not affect the effective date of the rates authorized by this decision.

10. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

Estimated 2003 Post-Settlement Revenue Requirements

Revenue Requirement

Line No.	Rate Components	Effective July '03	Bundled Service	DA
1.	SCE			
2.	Distribution			
3.	Base Distribution			
4.	a. Base - Distribution	2,194,967		
5.	Other Commission-adopted Distribution			
6.	a. Base - Exclusions	131,828		
7.	b. RRB Memo-Related	(53,033)		
8.	c. Bill Limiter Memo Acct.	11,370		
9.	Subtotal Other Commission-adopted Distribution	90,165		
10.	Total - Distribution	2,285,132		
11.	Generation			
12.	Base Generation			
13.	a. Base - Generation	516,148	516,148	-
14.	b. Base - SONGS	464,122	464,122	-
15.	Subtotal Base Generation	980,270	980,270	-
16.	Fuel and Purchased Power			
17.	a. ICIP Fuel	91,805	91,805	-
18.	b. Fuel	167,670	167,670	-
19.	c. SCE-Contract	2,265,504	2,265,504	-
20.	d. Residual Net Short	73,012	73,012	-
21.	Subtotal Fuel and Purchased Power	2,597,991	2,597,991	-
22.	Other Commission-adopted Generation			
23.	a. PROACT Overcollection	(107,901)	(107,901)	-
24.	b. Catchup Surcharge Overcollection	(3,996)	(3,996)	-
25.	c. Baseline Bal. Acct.	105,930	105,930	-
26.	d. DWR Franchise Fee Obligation	18,448	18,448	-
27.	e. HPC	-	(112,073)	112,073
28.	Subtotal Other Commission-adopted Generation	12,481	(99,592)	112,073
29.	Total - Generation	3,590,742	3,478,669	112,073
30.	Nuclear Decommissioning	45,458		
31.	Public Purpose Programs			

32.	a.	PGC	174,775		
33.	b.	Non-PGC	20,401		
34.	c.	CARE Bal. Acct.	60,006		
35.		Total PP Programs	<u>255,181</u>		
36.		Transmission			
37.	a.	Base Revenue	282,318		
38.	b.	TRBAA	(42,291)		
39.	c.	TACBA	21,545		
40.	d.	RSBA	31,562		
41.		Total Transmission	<u>293,133</u>		
42.		Trust Transfer Amount (TTA)	315,951		
43.		SCE Revenue Requirement	<u>6,785,597</u>	<u>3,478,669</u>	<u>112,073</u>
44.		DWR			
45.	a.	Power Charge	1,932,146	1,710,161	221,985
46.	b.	Bond Charge	330,592	330,592	-
47.		DWR Revenue Requirement	<u>2,262,738</u>	<u>2,040,753</u>	<u>221,985</u>
48.		TOTAL Revenue Requirement	<u>9,048,335</u>	<u>8,472,258</u>	<u>576,077</u>

(END OF APPENDIX A)

APPENDIX B

***** APPEARANCE *****

**Last updated on 22-APR-2003 by: SMJ
A0301019 LIST**

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(END OF APPENDIX B)